

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 3223

SHAHNAZ CHADORBAF
aka Shahnaz Chadorbaf-Arastoo
10 Hillgrass
Irvine, CA 92612

Pharmacist License No. RPH 43894

Respondent.

DECISION AND ORDER


The attached Stipulated Retirement of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on November 25, 2009.

It is so ORDERED October 26, 2009.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 G. MICHAEL GERMAN, State Bar No. 103312
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8 Attorneys for Complainant

9
10 **BEFORE THE**
11 **BOARD OF PHARMACY**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

14 **SHAHNAZ CHADORBAF,**
aka Shahnaz Chadorbaf-Arastoo
15 10 Hillgrass
Irvine, CA 92612
16
17 Pharmacist License No: RPH 43894

Respondent.

Case No. 3223

**STIPULATED RETIREMENT
OF LICENSE AND ORDER**

[Bus. & Prof. Code, § 4200.5]

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties specified in
20 this agreement that the following matters are true:

21 PARTIES

22 1. Petitioner Virginia Herold is the Executive Officer of the Board of Pharmacy,
23 Department of Consumer Affairs, State of California. She brought this action solely in her
24 official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of
25 the State of California, by G. Michael German, Deputy Attorney General.

26 2. On or about September 20, 1990, the Board issued Pharmacist License Number
27 RPH 43894 to Respondent Shahnaz Chadorbaf. The license was in full force and effect at all
28 times relevant to the charges brought herein and will expire on August 31, 2010, unless renewed.

1 communicate directly with the Board regarding this stipulation and settlement, without notice to
2 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
3 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the
4 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
5 Order, the Stipulated Retirement of License and Disciplinary Order shall be of no force or effect,
6 except for this paragraph, it shall be inadmissible in any legal action between the parties, and the
7 Board shall not be disqualified from further action by having considered this matter.

8 11. The parties understand and agree that facsimile copies of this Stipulated
9 Retirement of License and Order, including facsimile signatures thereto, shall have the same
10 force and effect as the originals.

11 12. In consideration of the foregoing admissions and stipulations, the parties agree
12 that the Board may, without further notice or formal proceeding, issue and enter the following
13 Order:

14 ORDER

15 Pursuant to Business and Professions Code section 4200.5, Registered Pharmacist
16 License Number 43894 issued to Shahnaz Chadorbaf, aka Shahnaz Chadorbaf-Arastoo is
17 RETIRED.

18 1. Respondent shall complete Form 17A-40, attached herewith as Exhibit B, and
19 return it with the thirty-dollar (\$30) application fee payable to the California Board of Pharmacy
20 on or before the effective date of the Decision and Order.

21 2. Respondent shall not advertise, by any means, or hold herself out as practicing or
22 available to practice pharmacy upon the effective date of the Decision and Order.

23 3. Respondent shall lose all rights and privileges as a pharmacist in California upon
24 the effective date of the Decision and Order, but shall be permitted to use the titles "retired
25 pharmacist" or "pharmacist, retired" thereafter.

26 4. Upon issuance of the retired license, Respondent shall not be required to renew
27 that license.

28

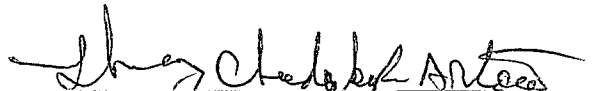
1 5. If Respondent ever restores her license to active status, the Board shall treat it as a
2 new application for licensure. Respondent must comply with all the laws, regulations and
3 procedures for licensure in effect at the time the application or petition is filed, including, but not
4 limited to passing the examination that is required for initial licensure, and all of the charges and
5 allegations contained in Accusation No. 3223 shall be deemed to be true, correct and admitted by
6 Respondent when the Board determines whether to restore the license.

7 10. Pursuant to Business & Professions Code section 125.3, the costs of investigation
8 and enforcement of this case are \$6,265.50 through June 19, 2009. Respondent shall pay this
9 amount in full within thirty days of the effective date of the Decision and Order. Payments shall
10 be in the form of a certified check, cashier's check or money order, payable to the Board of
11 Pharmacy and shall be mailed or delivered to the Board at 1625 North Market Blvd., Suite N219,
12 Sacramento, California, 95834, Attention: Susan Cappello. Failure to complete payment of cost
13 recovery within this time frame may subject Respondent's License 43894 to outright revocation.

14 ACCEPTANCE

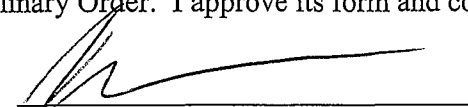
15 I have carefully read the above Stipulated Retirement of License and Order. I understand
16 the stipulation and the effect it will have on my original Pharmacist license. I enter into this
17 Stipulated Retirement of License and Order voluntarily, knowingly, and intelligently, and agree
18 to be bound by the Decision and Order of the Board of Pharmacy.

19
20 DATED: 6-23-09


21 SHAHNAZ CHADORBAF,
22 aka Shahnaz Chadorbaf-Arastoo
Respondent

23 I have read and fully discussed with my Client Shahnaz Chadorbaf, aka Shahnaz
24 Chadorbaf-Arastoo Respondent, the terms and conditions and other matters contained in the
25 above Stipulated Retirement of License and Disciplinary Order. I approve its form and content.

26 DATED: 6/26/09


27 BENJAMIN ROBERT MARGOLIS
28 Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Retirement of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: June 30, 2009

EDMUND G. BROWN JR., Attorney General
of the State of California

LINDA K. SCHNEIDER
Supervising Deputy Attorney General


G. MICHAEL GERMAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A
Accusation No. 3223

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 G. MICHAEL GERMAN, State Bar No. 103312
Deputy Attorney General
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12 In the Matter of the Accusation Against:

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13 **SHAHNAZ CHADORBAF,**
aka Shahnaz Chadorbaf-Arastoo
14 10 Hillgrass
Irvine, CA 92612

A C C U S A T I O N

15 Pharmacist License No: RPH 43894

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about September 20, 1990, the Board of Pharmacy (Board) issued
23 Pharmacist License Number RPH 43894 (License) to Shahnaz Chadorbaf (Respondent). The
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on August 31, 2010, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise stated.

1 4. Section 4300, subdivision (a) of the Code states, "Every license issued may be
2 suspended or revoked."

3 5. Section 118, subdivision (b), of the Code provides that the suspension,
4 expiration, surrender, or cancellation of a license shall not deprive the Board to proceed with a
5 disciplinary action during the period within which the license may be renewed, restored, reissued
6 or reinstated.

7 **STATUTORY PROVISIONS**

8 6. Section 480 states, in pertinent part:

9 (a) A board may deny a license regulated by this code on the grounds that
10 the applicant has one of the following:

11

12 (3)(A) Done any act that if done by a licentiate of the business or
profession in question, would be grounds for suspension or revocation of license.

13 (B) The board may deny a license pursuant to this subdivision only if the
14 crime or act is substantially related to the qualifications, functions, or duties of the
business or profession for which application is made.

15 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
16 revoke a license on the ground that the licensee has been convicted of a crime substantially
17 related to the qualifications, functions, or duties of the business or profession for which the
18 license was issued.

19 8. Section 493 of the Code states:

20 Notwithstanding any other provision of law, in a proceeding conducted by
21 a board within the department pursuant to law to deny an application for a license
22 or to suspend or revoke a license or otherwise take disciplinary action against a
23 person who holds a license, upon the ground that the applicant or the licensee has
24 been convicted of a crime substantially related to the qualifications, functions,
25 and duties of the licensee in question, the record of conviction of the crime shall
be conclusive evidence of the fact that the conviction occurred, but only of that
26 fact, and the board may inquire into the circumstances surrounding the
27 commission of the crime in order to fix the degree of discipline or to determine if
the conviction is substantially related to the qualifications, functions, and duties
of the licensee in question.

26 As used in this section, "license" includes "certificate," "permit,"
27 "authority," and "registration."

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9. Section 4301 of the Code states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

....

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

....

(p) Actions or conduct that would have warranted denial of a license.

....

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

1 11. California Code of Regulations, title 16, section 1769, states, in pertinent part:

2

3 (b) When considering the suspension or revocation of a facility or a
4 personal license on the ground that the licensee or the registrant has been
5 convicted of a crime, the board, in evaluating the rehabilitation of such person
6 and his present eligibility for a license will consider the following criteria:

6 (1) Nature and severity of the act(s) or offense(s).

7 (2) Total criminal record.

8 (3) The time that has elapsed since commission of the act(s) or offense(s).

9 (4) Whether the licensee has complied with all terms of parole, probation,
10 restitution or any other sanctions lawfully imposed against the licensee.

11 (5) Evidence, if any, of rehabilitation submitted by the licensee.

12 **COST RECOVERY**

13 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request
14 the administrative law judge to direct a licensee found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(September 12, 2007 Federal Criminal Conviction for Receiving
19 Illegal Medicare Kickbacks Between 2002 and 2003)**

20 13. Respondent has subjected her license to discipline under sections 490 and 4301,
21 subdivision (l) of the Code in that she was convicted of a crime substantially related to the
22 qualifications, duties, and functions of a pharmacist. The circumstances are as follows:

23 a. On or about September 12, 2007, in a criminal proceeding entitled *United*
24 *States of America v. Shanaz Chadorbaf-Arastoo*, United States District Court for the Central
25 District of California, Southern Division, case number SA CR 07-0019, Respondent was
26 convicted on her plea of guilty of violating Title 42, U.S. Code, §1320a-7b(b)(1)(A), receiving
27 financial kickbacks in return for referring patients for the furnishing of, or arranging for the
28 furnishing of, respiratory treatments paid under Medicare, a felony.

///

1 b. As a result of the conviction, on or about February 22, 2008, Respondent
2 was sentenced to one year on probation; pay fines, fees and restitution in the total amount of
3 \$9,100; provide a DNA sample; and not be employed in any position that requires licensing
4 and/or certification by any local, state, or federal agency without prior approval of her federal
5 probation officer.

6 c. The facts that led to the conviction were that from approximately January
7 2002 until mid-2007, Respondent owned and was the licensee of Royal Healthcare (Royal), a
8 board and care facility located in Anaheim. In mid-2002, Respondent was approached regarding
9 a Dr. A's providing respiratory therapy treatments to Royal residents. Dr. A and/or his associate
10 proposed paying Respondent in return for her permitting them access to Royal patients to
11 provide respiratory therapy. After initially refusing to do so, Respondent subsequently agreed to
12 accept payments from Dr. Asher. As part of that treatment process, Royal's former administrator
13 would provide health insurance information, including Medicare numbers, to Dr. Asher for those
14 residents receiving respiratory therapy. Dr. Asher then billed Medicare for those treatments in
15 an amount totaling approximately \$4,000 between late-2002 through mid-2003.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct - Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

18 13. Respondent is subject to disciplinary action under section 4301, subdivision (f) of
19 the Code in that between 2002 and 2003, Respondent engaged in acts of moral turpitude,
20 dishonesty, fraud, deceit, or corruption, as detailed in paragraph 13, above.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct - Actions or Conduct Warranting Denial of a License)**

23 14. Respondent is subject to disciplinary action under section 4301, subdivision (p)
24 the Code, in that between 2002 and 2003, Respondent engaged in actions or conduct that would
25 have warranted denial of a license under section 480(a)(3)(A) of the Code, as detailed in
26 paragraph 13, above.

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PRAYER

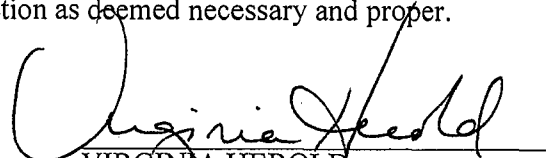
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacist License Number RPH 43894, issued to Shahnaz Chadorbaf, aka Shahnaz Chadorbaf-Arastoo;

2. Ordering Shahnaz Chadorbaf, aka Shahnaz Chadorbaf-Arastoo to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 3/26/09



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant